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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/313,139 05/17/99 SCHOFIELD

K DON01-P-751

EXAMINER

LM02/1227

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ART UNIT

PAPER NUMBER

2736

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/313,139

Applicant(s)

SCHOFIELD ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 50-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50-111 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This Office action is in response to the pre-amendment filed May 17, 1999. Claims 1-49 have been canceled. Claims 50-111 have been added.

#### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 50-74, 77-104, and 107-111 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1- of U.S. Patent No. 5,949,331. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 50 is not distinct from claims 1, 10, and 11 of the patent.

Claims 51-52 are not distinct from claims 8-9<sup>3</sup> respectively.

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Claim 53 is not distinct from claim 11.

Claim 54 is not distinct from claim 2.

Claim 55 is not distinct from claim 6.

Claim 56 and 57 would have been obvious to one skilled in the art because once the display is designed to provide graphic overlay such graphic could be used to indicate any information desired.

Claim 58 is not distinct from claim 7.

Claim 59 is not distinct from claim 2.

Claim 60 is not distinct from claim 27.

Claim 61 would have been obvious to one skilled in the art because it is a common sense to provide a field of view which is symmetrical to the longitudinal axis of the vehicle.

Claim 62 would have been obvious to one skilled in the art because it is well known in the art and would be functionally equivalent to any imaging device.

Claim 63 is met by claim 19.

Claim 64 is not distinct from claim 24.

Claim 65 is not distinct from claim 3.

Claim 66 is not distinct from claim 8.

Claim 67 is not distinct from claim 9.

Claims 68-71 would have been obvious to one of ordinary skill in the art and would not be considered inventive because the claimed different types of possible displays only constitute a design choice.

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Claims 72 would have been obvious to one skilled in the art because one would know to position the display system at location without obstructing the view of the driver through the windshield to avoid hazard.

Claim 73 would have been obvious because the common location for such display is normally at the vehicle dashboard.

Claim 77 is not distinct from claim 3.

Claim 78 is not distinct from claim 5

Claim 79 is not distinct from claim 6.

Claim 80 is not distinct from claim 7.

Claim 81 is not distinct from claim 1 and 11.

Claim 82 is not distinct from claim 10.

Claim 83 is not distinct from claim 9.

Claim 84 is not distinct from claim 8.

Claim 85 is not distinct from claim 2.

Claim 86 is not distinct from claim 6.

Claim 87 and 88 would have been obvious to one skilled in the art because once the display is designed to provide graphic overlay such graphic could be used to indicate any information desired.

Claim 89 would have been obvious to a skilled artisan because one would desire to make the display to correspond with the real image.

Claim 90 is not distinct from claim 2.

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Claim 91 is not distinct from claim 27.

Claim 92 would have been obvious to one skilled in the art because it is a common sense to provide a field of view which is symmetrical to the longitudinal axis of the vehicle.

Claim 93 would have been obvious to one skilled in the art because it is well known in the art and would be functionally equivalent to any imaging device.

Claim 94 is not distinct from claim 19.

Claim 95 is not distinct from claim 24.

Claim 96 is not distinct from claim 4.

Claim 97 is not distinct from claim 8.

Claim 98 is not distinct from claim 9.

Claims 99-102 would have been obvious to one of ordinary skill in the art and would not be considered inventive because the claimed different types of possible displays only constitute a design choice.

Claims 103 would have been obvious to one skilled in the art because one would know to position the display system at location without obstructing the view of the driver through the windshield to avoid hazard.

Claim 104 would have been obvious because the common location for such display is normally at the vehicle dashboard.

Claim 108 is not distinct from claim 3.

Claim 109 is not distinct from claim 5.

Claim 110 is not distinct from claim 6.

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Claim 111 is not distinct from claim 7.

4. Claims 75-76 and 106-107 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10 and 11 of U.S. Patent No. 5,949,331 in view of US Patent No. 5,893,420 to Schmidt.

Claims 75-76 and 106-107 would have been obvious to one skilled in the art because a display of virtual image using heads-up display to show images in the rear of a vehicle taken by an image-capturing device is conventional as shown in Schmidt. One would have recognized using the display system of Schmidt in the system of '331 since it is well known.

5. Claim 74 and 105 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, and 11 of U.S. Patent No. 5,949,331 in view of US Patent No. 5,798,575 to O'Farrell et al.

Claim 74 would have been obvious to one skilled in the art because a display system mounted at a position conveniently occupied by an interior rearview mirror is well known in the art as shown in O'Farrell et al. Thus, one skilled in the art would have readily recognized the desirability of doing the same in the '331 since it is a conveniently familiar location for observing the rear of the vehicle.

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*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Asayama, US Patent No. 5,424,952, discloses a vehicle-surrounding monitoring apparatus.

Hsieh, US Patent No. 5,574,443, discloses a vehicle monitoring apparatus with broadly and reliably rearward viewing.

Furata, US Patent No. 5,959,555, discloses an apparatus for checking blind spots of vehicle.

Schmidt, US Patent No. 5,793,420, discloses a video recording system for vehicle.

O'Farrell et al., US Patent No. 5,798,575, discloses a vehicle mirror digital network and dynamically interactive mirror system.

Schofield et al., US Patent No. 5,559,677, discloses an automatic rearview mirror system using a photosensor array.

Schofield et al., US Patent No. 5,949,331, discloses a display enhancements for vehicle vision system.

Schofield et al., US Patent No. 5,670,935, discloses a rearview vision system for vehicle including panoramic view.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is (703) 308-6738. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 5:00 PM. The fax phone number for this Group is (703) 305-3988.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (703) 305-4717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-8576.

*Julie Lieu*

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Jlieu

December 14, 1999